IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1909 OF 2005
ALONGWITH
CRIMINAL WRIT PETITION NO. 1910 OF 2005

Mr. Devi Prasad Budhia & Ors ...Petitioners

Versus

The State of Maharashtra & Anr ...Respondents

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Mr. Vivek Sharma, Advocate for Petitioners

K.C. Prusty, Advocate for Respondent No.2.

Mr. Rajesh More A.P.P. in W.P. No.1909 of 05.
Mr. S.S. Pednekar, A.P.P. in W.P. No.1910 of 05.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 12TH AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the petitioners i.e. original accused, the learned advocate for the respondent No.2 i.e. original complainant and the learned A.P.P. for the State.

2. The learned advocate for the petitioners states that he is only praying for quashing of the proceedings relating to C.C. Nos.194 of 2005 and 195 of 2005 and he is not pressing any other relief. Hence, this petition is being considered only in respect of prayer for quashing of proceedings in C.C.

No.194 of 2005 and C.C. No. 195 of 2005 which are pending in the Court of learned Metropolitan Magistrate, 33rd Court at Ballard Pier, Mumbai. In the said case, process has been issued against the petitioners under Section 138 of Negotiable Instruments Act. The learned advocate for the petitioners submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the petitioners is set aside, the proceedings in respect of the petitioners would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the petitioners have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the petitioners prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioners to prefer revision before the concerned Sessions Court. The learned advocate for the petitioners states that the necessary revision would be preferred within a period

of four weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of four weeks from today. The learned advocate for the respondent No.2 i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

5. On the necessary revision being preferred by the petitioners before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

6. Writ Petitions are disposed of.

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